

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLEVELAND EVANS,

Plaintiff,

No. CIV S-04-2151 LKK GGH P

vs.

JEANNE WOODFORD, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. By order filed September 12, 2005, plaintiff's claims against two defendants were dismissed with leave granted plaintiff to file a third amended complaint. Plaintiff did not file a third amended complaint. By findings and recommendations concurrently filed, the undersigned recommends dismissal of two of the defendants.

The second amended complaint states a cognizable claim for relief as to defendant RN Nicholas pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of this action.

\\\\\\

1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Service is appropriate for the following defendant: RN Nicholas.

3 2. The Clerk of the Court shall send plaintiff one (1) USM-285 form, one  
4 summons, an instruction sheet and a copy of the second amended complaint filed on April 22,  
5 2005.

6 3. Within thirty days from the date of this order, plaintiff shall complete the  
7 attached Notice of Submission of Documents and submit the following documents to the court:

8 a. The completed Notice of Submission of Documents;

9 b. One completed summons;

10 c. One completed USM-285 form for each defendant listed in number 1  
11 above; and

12 d. Two (2) copies of the endorsed second amended complaint filed April  
13 22, 2005.

14 4. Plaintiff need not attempt service on defendants and need not request waiver of  
15 service. Upon receipt of the above-described documents, the court will direct the United States  
16 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4  
17 without payment of costs.

18 DATED: 11/29/05

19 /s/ Gregory G. Hollows

20 

---

UNITED STATES MAGISTRATE JUDGE  
21  
22

23 evan2151.2amd.  
24  
25  
26

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLEVELAND EVANS,

Plaintiff,

No. CIV S-04-2151 LKK GGH P

vs.

JEANNE WOODFORD, et al.,

Defendants.

NOTICE OF SUBMISSION

OF DOCUMENTS

\_\_\_\_\_/

Plaintiff hereby submits the following documents in compliance with the court's  
order filed \_\_\_\_\_:

1 completed summons form

1 completed USM-285 forms

2 copies of the April 22, 2005  
Second Amended Complaint

DATED:

\_\_\_\_\_  
Plaintiff